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WA No. 166 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2024

CORAM :

THE HONOURABLE MR.R.MAHADEVAN, ACTING CHIEF JUSTICE
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Writ Appeal No.166 of 2024
and
C.M.P.Nos.967, 968 and 970 of 2024

M.D. Ramya

.. Appellant

Versus

1. The State of Tamilnadu
represented by its Principal Secretary to Government
Higher Education K2 Department
Fort St. George, Chennai - 600 009

2. University of Madras
Chepauk, Chennai - 600 005

3. Teachers Recruitment Board
4th Floor, DPI Campus
College Road, Chennai - 600 006

.. Respondents

Writ Appeal filed under Clause 15 of Letters Patent against the order
dated 29.11.2023 passed in WP No. 30781 of 2023 on the file of this Court.



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For Appellant : Mrs. Kavitha Nithyanandan

For Respondents : Mr. D. Ravichander
Special Government Pleader for R1

Ms. A. Shabnam Banu for R2

Mr. R. Neelagandan, Additional Advocate General
for Mr. C. Kathirvanan, Standing Counsel for R3

JUDGMENT

(Judgment of the Court was delivered by the Hon'ble Acting Chief Justice)

The appellant has come forward with this intra-court appeal, aggrieved by the order dated 29.11.2023 passed by the learned Judge, dismissing Writ Petition No. 30781 of 2023 filed by her.

2. The appellant has filed the aforesaid Writ Petition No. 30781 of 2023 praying to issue a Writ of Certiorarified Mandamus to call for the records of the first respondent in G.O. Ms. No.244, Higher Education (K2) Department dated 07.11.2022 insofar as it relates to item No.29 stating that B.Sc. Science (Mathematics, Physics, Computer Science) awarded by Sri Venkateswara University is not equivalent to B.Sc. (Physics) for the purpose of employment in public service and to quash the same as illegal and unsustainable in law, insofar as the petitioner is concerned and for a consequential direction to treat



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the writ petitioner-appellant as eligible for employment in public services of the State holding that B.Sc. (MPC) acquired by her is equivalent to B.Sc. (Physics).

3. According to the appellant, she has completed S.S.L.C. during the year 2005 and Higher Secondary in the year 2007. Thereafter, the appellant completed B.Sc., Science (Mathematics, Physics, Computer Science) (Triple Major) in the year 2012 at Sri Venkateswara University, Tirupathi. Later, the appellant also completed B.Ed., during the year 2014. Subsequently, the appellant pursued M.Sc. (Physics) and completed it in the year 2014 from University of Madras. According to her, the second respondent University also issued an equivalence certificate to her stating that the degree of B.Sc. (Mathematics, Physics, Computer Science) pursued by her is equal to the corresponding degree offered by the second respondent university for the purpose of appointment in Government service. Similarly, the second respondent university also issued an equivalence certificate to the effect that the degree of Bachelor of Education in Physical Science and Mathematics awarded to her by Sri Venkateswara University, Andhra Pradesh has been recognised as equivalent to corresponding B.Ed., course offered by the second respondent.



4. The appellant further stated that she appeared for TNTET Paper - II during August 2013 and thereafter in the years 2017 and 2022. The appellant was also called for an interview during the years 2013 and 2017 but no objection whatsoever was raised by the third respondent regarding the eligibility of the appellant to participate in the selection process for public appointment on the basis of the educational qualification obtained by her. While the appellant was waiting for government appointment, the first respondent issued G.O. Ms. No.244, Higher Education (C2) Department dated 07.11.2022 stating that B.Sc., Science (Mathematics, Physics, Computer Science) awarded by Sri Venkateswara University is not equivalent to B.Sc. (Physics) for the purpose of public employment in the State. Challenging the validity of G.O. Ms. No.244 dated 07.11.2022, the appellant has filed the writ petition before the learned Judge.

5. When the writ petition was listed for hearing, the learned Judge observed that when an expert committee renders its view with regard to evaluation and equivalence between two degrees, this Court cannot, in exercise of powers under Article 226 of the Constitution of India, interfere with the same and re-appraise the decision of the experts. For this purpose, the learned Judge placed reliance on the decision of the Honourable Supreme



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Court in the case of *Anand Yadav and others vs. State of Uttar Pradesh*

reported in (2021) 12 SCC 390 and concluded that the educational qualification possessed by the appellant has been evaluated by a committee of experts and on the basis of their opinion, the Government has issued G.O. Ms. No.144 dated 07.11.2022. Accordingly, the learned Judge held that the appellant is not entitled to participate in public employment in which B.Sc. (Physics) is notified and dismissed the writ petition filed by the appellant on 29.11.2023.

6. Assailing the aforesaid order dated 29.11.2023 of the learned Judge, the appellant has come forward with this intra-court appeal.

7. Mrs. Kavitha Nithyanandan, learned counsel appearing for the appellant contends that the Learned Judge did not take into account the fact that the second respondent University considered the B.Sc., degree conferred to the appellant as equivalent to B.Sc. (Physics) degree in the State and granted admission to her to pursue M.Sc. (Physics) in the university. Further, the second respondent University issued an equivalence certificate dated 06.03.2014 to the effect that the Degree of B.Sc. (Mathematics, Physics, Computer Science) awarded by Sri Venkateswara University is equivalent to the corresponding B.Sc. degree of the University of Madras for the purpose of



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public appointment. In any event, the decision arrived at by the committee is based on the comparison made with the syllabus prevailing in Tamil Nadu for acquiring B.Sc. (Physics) and B.Sc. (Maths, Physics, computer science) degree offered by Sri Venkateswara University for the purpose of public employment. However, the appellant was conferred with the degree by Sri Venkateswara University long back and therefore, based on the opinion of the experts, the degree conferred upon the appellant cannot be nullified. In other words, the appellant completed the degree in the year 2014 and at that time, the second respondent University itself had issued the equivalence certificate. While so, the opinion rendered by the expert committee in the year 2022 cannot be put against the appellant to deny her public employment. To buttress this submission, the learned counsel for the appellant placed reliance on the decision of the Full Bench of this Court in the case of *Nadar Thanga Shubha Laxman A vs. The State of Tamil Nadu* reported in 2014 (3) CTC 433 in which it was held that when once equivalence is granted, it dates back to the date of completion for the degree. As a corollary, non-equivalence orders issued much later cannot, by the same logic, be deemed to be retrospective and must only be prospective in nature so as not to take away the rights of candidates who acquired the degrees earlier. By placing reliance on the aforesaid decision of the Full Bench, the learned counsel for the appellant submitted that



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the syllabus that was in vogue at the time when the appellant completed the degree in the year 2014 cannot be the same in the year 2022 or it can be compared with the present syllabus and therefore, the opinion of the expert has to be applied prospectively and not retrospectively much to the chagrin of the appellant. The learned counsel therefore prayed this Court to set aside the order passed by the learned Judge and to allow this Writ Appeal as prayed for.

8. Per contra, Mr. D. Ravichander, learned Special Government Pleader appearing for the first respondent, and Mr. R. Neelakandan, learned Additional Advocate General appearing for the third respondent would contend that the 17th Equivalence Committee meeting was held on 20.10.2022. The equivalence committee was presided by the Principal Secretary to Government, Higher Education Department as its Chairman. The committee deliberated on the equivalence of various degrees offered by various universities/educational institutions to the similar degrees for the purpose of employment in public services. The committee also requested the Government to issue appropriate orders in the matter on the basis of the opinion rendered by the equivalence committee. The Government on consideration of the opinion of the experts in the field, approved the resolutions and issued G.O. (Ms) No. 243, Higher Education Department dated



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07.11.2022. While so, the learned Judge has rightly held that in exercise of powers under Article 226 of the Constitution of India, the equivalence degrees indicated by the Government in G.O. Ms. No.243, dated 07.11.2022, on the basis of the opinion of the experts in the field need not be interfered with. The learned Additional Advocate General further states that this Court cannot have the expertise to tweak into the correctness of the equivalent degrees recommended by the experts in the field. When the degree obtained by the appellant is found to be not equivalent with the degree required to be possessed for public appointment, by the experts, after going through the pattern of syllabus etc., the same need not be interfered with by this Court. Even though the equivalence committee met and deliberated on the equivalence of the various degrees in the year 2022, it will be taken note of for the purpose of public employment and in such event, the appellant is dis-entitled to participate in the selection process for appointment to any post. Taking note of the above, the learned Judge rightly dismissed the writ petition filed by the appellant. Therefore, the learned counsel prayed for dismissal of this appeal.

9. We have heard the learned counsel for the appellant, the learned Special Government Pleader for the first respondent, the learned standing counsel for the second respondent as well as the learned Additional Advocate



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General appearing for the third respondent and also perused the materials placed on record.

10. The undisputed facts are that the appellant had completed SSLC in the year 2005 and HSC in the year 2007 in Tamil Nadu. Thereafter she completed B.Sc., Science (Mathematics, Physics, Computer Science) in 2012 at Sri Venkateswara University, Tirupathi, and also completed B.Ed., in the year 2014. She was admitted to M.Sc. (Physics) and she completed the same in 2014 from the University of Madras, the 2nd respondent herein.

11. It is the specific stand of the 2nd respondent university that at the relevant point of time, it had the authority to issue an equivalence certificate and as such, it had issued a certificate stating that the degree of B.Sc. Science (Mathematics, Physics, Computer Science) is equal to the corresponding degree of B.Sc. (Physics) of the 2nd respondent university for the purpose of appointment. Similarly, the 2nd respondent university also issued an equivalence certificate stating that the degree of Bachelor of Education in Physical Science and Mathematics awarded by Sri Venkateswara University, Andhra Pradesh has been recognized as equivalent to corresponding B.Ed.,

<https://www.mhc.tn.gov.in/judis>



degree of the 2nd respondent university for the purpose of appointment. Such a certificate was issued by the second respondent University in favour of the appellant by comparing the pattern of syllabus and curriculum that was in vogue. It is also an admitted fact that the appellant participated in the TNTET examination conducted during August 2013 and in the years 2017 and 2022. However, the eligibility or otherwise of the appellant was not questioned and she was permitted to write the competitive examination. Thus, it is evident that the competence of the degree obtained by the appellant for the purpose of public employment was considered to be valid until 2022, i.e., until the Government issued the order in G.O. Ms. No.244, Higher Education (C2) Department dated 07.11.2022, wherein, the qualification possessed by the appellant was treated to be invalid for the purpose of public employment.

12. The equivalence committee was constituted only in 2022. There is no semblance of doubt that till then and until the date of the impugned order based on the equivalence committee constituted by the Government in 2022, the University had the power and authority to decide on equivalence. Only as per G.O.Ms.No.93 Higher Education (K2) Department dated 30.05.2019 issued by the 1st respondent, a new equivalence committee was constituted and



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respondent university and others. Infact, almost a decade has passed since the date of the appellant completing her M.Sc. (Physics) on the strength of this equivalence certificate issued by the University.

13. The appellant also stated that though she has not been appointed till date in any of the posts notified by the State Government, she has participated in the selection process in 2013 and 2017, and no objection was raised by the 3rd respondent regarding her eligibility for public employment on the basis of her graduation degree or on issues of equivalence thereof.

14. The moot question therefore would be, whether by way of the impugned order, the rights already vested in the appellant can be taken away. While the learned Judge approached the issue from the angle as to whether this Court can interfere with the views and opinion of an expert body, such as the equivalence committee, the question as to whether an equivalence committee can nullify the already existing equivalence with retrospective effect is the point for consideration in the present case. According to us, there can be no two opinions that the High Court in exercise of its powers under Article 226 of the Constitution of India, cannot interfere with the opinion of an equivalence committee. However, where the recommendations of the equivalence



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committee are given effect to in a manner as to interfere with vested rights, and as in the present case, made applicable to a degree obtained more than 10 years ago, it can only be said to be retrospective and such a course is not permissible in law.

15. In the decision of the Full bench of this Court in *Nadar Thanga Shubha Laxman A. vs. The State of Tamil Nadu* (29.11.2013 - MADHC) : MANU/TN/3031/2013, while examining whether the equivalence certificate issued by the committee will date back to the date of issuance to the degree this court held as follows:-

“13. The learned Division Bench, in its brief order, while dealing with the qualification namely, M.Sc., Mathematical Economics declared as equivalent to M.A. Economics degree by the Government in G.O.Ms. No. 72, Higher Education (K2), Department, dated 30.04.2013, as per the recommendation of the Equivalence Committee, was of the view that, if any selection is made for teacher appointment after G.O.Ms. No. 72, Higher Education (K2), Department dated 30.04.2013 which holds certain degrees equivalent to other degrees issued by some other educational institutions, such candidates become qualified from the date of such Government Order. Pausing here, straight away, we intend to observe that such a tight and narrow view to hold a particular degree as equivalent to another degree only from the date of the G.O. will unjustly take away the rights accrued from the date of acquisition of the degree, therefore, when there is no such specific mention made by the Government Order or the Equivalence Committee about the prospective or retrospective effect of the degree already obtained, giving prospective effect by reducing/curtailing the validity of the degree certificate is totally uncalled for. As a matter of fact, once the Equivalence Committee, after proper deliberations, have come to the conclusion that one degree issued by one university is equivalent to another degree issued by another university, it does not become equivalent to the other only from the date of issuance of the Government Order by the Government or on the date of Equivalence Committee considered it as equivalent, rather, it becomes equivalent from the very date of its issuance by the University concerned.



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14. To put it as an illustration, if 'A' acquires a degree-B.A. in English and Communication on 01.01.2010, the said degree, having been considered as equivalent to B.A. Degree in English by the Equivalence Committee constituted by the Government by a Government Order, dated 01.01.2012, the same cannot be equivalent from the date of passing the G.O. viz., 01.01.2012, belatedly, after two years viz., on 01.01.2012. This is for the reason that when the Equivalence Committee, after many deliberations, gives its seal of approval that one degree can be considered as equivalent to another degree by expressing their view on a particular date accepting the validity of the degree from the date of issue by the concerned university or educational institutions, definitely, it goes without saying that such a degree/diploma/certificate holder is entitled to enjoy the utility of the degree without even losing its validity from the date of issuance of the Government Order. Since this vital aspect, with due respect to the learned Division Bench, has been overlooked in N. Geetha's case, we are inclined to hold that once a degree/diploma/certificate is issued, the same will have its validity from the date of issuance by the concerned university or educational institution but not from the date of issuance of Government order, accepting the recommendation of the Equivalence Committee.

15. In this context, it is pertinent to refer to a judgment in S.L. Srinivasa Jute Twine Mills (P) Ltd., Vs. Union of India and another reported in MANU/SC/1017/2006 : (2006) 2 SCC 740 as the ratio laid down in this decision would undo the case and claim of the respondents. The judgment is clear and unambiguous on the issue and paragraph 14, which is relevant, is given as under:

'14. In Govind Das Vs. ITO-MANU/SC/0248/1975 : (1976) 1 SCC 906, this Court speaking through P.N. Bhagwati. J., (as he then was) held:

11. Now it is a well settled rule of interpretation hallowed by time and sanctified by judicial decisions that, unless the terms of a statute expressly so provide or necessarily require it, retrospective operation should not be given to a statute so as to take away or impair an existing right or create a new obligation or impose a new liability otherwise than as regards matters of procedure. The general rule as stated by Halsbury in Vol. 36 of the Laws of England (3rd Edn.) and reiterated in several decisions of this Court as well as English courts is that all statutes other than those which are merely declaratory or which relate only to matters of procedure or of evidence are *prima facie* prospective" and retrospective operation should not be given to a statute so as to affect, alter or destroy an existing right or create a new liability or obligation unless that effect cannot be avoided without doing violence to the language of



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the enactment. If the enactment is expressed in language which is fairly capable of either interpretation, it ought to be construed as prospective only.

16. A mere perusal of the above observation vividly shows that the candidates, who had appeared for TET with the requisite qualification as per the advertisement, have acquired vested rights and benefits, hence, the same cannot be retrospectively taken away, since this will visit civil consequences.

17. Moreover, the Apex Court in the case of Purbanchal Cables and Conductors Private Limited Vs. Assam State Electricity Board and another reported in MANU/SC/0540/2012 : 2012 4 L.W. 410 : (2012) 7 SCC 462 dealt with a similar issue and held that generally, an Act should always be regarded as prospective in nature unless the legislature has clearly intended the provisions of the said Act to be made applicable with retrospective effect. In this context, it is relevant to extract below paragraph 49 of the said judgment,

49. In the case of Zile Singh Vs. State of Haryana-MANU/SC/0876/2004 : (2004) 8 SCC 1, this Court examined the various authorities on statutory interpretation and concluded:

13. It is a cardinal principle of construction that every statute is prima facie prospective unless it is expressly or by necessary implication made to have a retrospective operation. But the rule in general is applicable where the object of the statute is to affect vested rights or to impose new burdens or to impair existing obligations. Unless there are words in the statute sufficient to show the intention of the legislature to affect existing rights, it is deemed to be prospective only--"nova constitutio futuris formam imponere debet non praeteritis"--a new law ought to regulate what is to follow, not the past. (See Principles of Statutory Interpretation by Justice G.P. Singh, 9th Edn., 2004 at p. 438.) It is not necessary that an express provision be made to make a statute retrospective and the presumption against retrospectivity may be rebutted by necessary implication especially in a case where the new law is made to cure an acknowledged evil for the benefit of the community as a whole (ibid., p. 440).

14. The presumption against retrospective operation is not applicable to declaratory statutes.... In determining, therefore, the nature of the Act, regard must be had to the substance rather than to the form. If a new Act is "to explain" an earlier Act, it would be without object unless construed retrospectively. An explanatory Act is generally



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passed to supply an obvious omission or to clear up doubts as to the meaning of the previous Act. It is well settled that if a statute is curative or merely declaratory of the previous law retrospective operation is generally intended.... An amending Act may be purely declaratory to clear a meaning of a provision of the principal Act which was already implicit. A clarificatory amendment of this nature will have retrospective effect (ibid., pp. 468-69).

18. The above observation, once again, makes the issue raised in the present writ petitions clear that the rule in general is applicable where the object of the statute is to affect vested rights or to impose new burdens or to impair existing obligations. Unless there are words in the statute sufficient to show the intention of the legislature to affect the existing rights, it is deemed to be prospective only.

19. In similar circumstances, the learned single Judge of this Court in W.P.(MD) Nos. 34457 and 34458 of 2012, dated 28.02.2013 by following the judgment in Chandrakala Trivedi Vs. State of Rajasthan reported in MANU/SC/0040/2012 : (2012) 3 SCC 129 held as follows:

2. In the prospectus issued by the TRB, the eligibility to write TET was specified in Para 3, wherein it is stated that candidates must have passed Bachelor's Degree (B.A./BSc./B.Litt) with Tamil, English, Mathematics, Physics, Chemistry, Botany, Zoology, History and Geography or a degree with any one of the equivalent subjects from a recognized University under 10+2+3 pattern and a Degree in Teacher Education (B.Ed.) from a recognized University.

3. In the present case, to the advantage of the petitioners, the State Government has issued G.O.(ID) No. 333, Higher Education Department, dated 27.11.2012, holding that B.A. Communicative English awarded by Madurai Kamaraj University is equivalent to B.A. English for the purpose of employment in public services. The petitioners also produced several other communications given by the University stating that the B.A. Communicative English is equivalent to B.A. English.

4. In this context, it must be noted that the respondents in their prospectus did not advertise only for candidates having exact qualification, it also contemplated persons having an equivalent qualification. The Supreme Court has recognized the distinction between the equivalent and exact qualification vide judgment reported in MANU/SC/0040/2012 : (2012) 3 SCC 129 (Chandrakala Trivedi Vs. State of Rajasthan). In paragraph Nos. 8 and 9, it observed as follows:



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8. The word "equivalent" must be given a reasonable meaning. By using the expression "equivalent" one means that there are some degrees of flexibility of adjustment which do not lower the stated requirement. There has to be some difference between what is equivalent and what is exact. Apart from that, after a person is provisionally selected, a certain degree of reasonable expectation of the selection being continued also comes into existence.

9. Considering these aspects of the matter, we are of the view that the appellant should be considered reasonably and the provisional appointment which was given to her should not be cancelled. We order accordingly. However, we make it clear that we are passing this order taking in our view the special facts and circumstances of the case.

20. In yet another judgment of the Apex Court in *Udai Singh Dagar vs. Union of India*, reported in MANU/SC/2872/2007 : (2007) 10 SCC 306, while considering almost a similar issue with regard to protecting the rights and privileges of diploma and certificate holders in Veterinary Science, it was held that not only a vested or accrued right but also inchoate right is protected. Strong reliance in this behalf has been placed on a decision in Court of Appeal in *Chief Adjudication Officer vs. Maguire*, reported in MANU/UKWA/0276/1999 : (1999) 2 All ER 859 (CA). It is relevant to extract paragraph 71 of the above said judgment:-

71. The expression "unless a different intention appears" contained in Section 6 of the General Clauses Act, thus, in this case, would be clearly attracted. A right, whether inchoate or accrued or acquired right, can be held to be protected provided the right survives. If the right itself does not survive and either expressly or by necessary implication it stands abrogated, the question of applicability of Section 6 of the General Clauses Act would not arise at all. (See *Banisidhar vs. State of Rajasthan*, reported in MANU/SC/0057/1989 : (1989) 2 SCC 557 and *Thyssen Stahlunion GmbH vs. Steel Authority of India Ltd.* reported in MANU/SC/0652/1999 : (1999) 9 SCC 334.

21. The above observation of the Apex Court clearly answers the doubt raised in this Reference that a right whether inchoate or accrued or acquired right can be held to be protected, provided the right survives. In the light of the said principle, if the case on hand is considered, admittedly, the equivalence committee has considered and approved the equivalent nature of the degree and certificate obtained by the candidates. Similarly, the Government Order issued by the Government also agrees with the validity of



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the degree, therefore, from the date the degree was obtained by the candidate, the right is accrued, hence the same should be protected. While so, giving a different meaning that the validity of the degree will have prospective effect or retrospective effect is uncalled for. To make it even further clear, we wish to mention at the risk of repetition that when both the equivalence committee and the Government Order issued by the State Government have not chosen to restrict the validity of the degree obtained in any one of their orders, it goes without saying that the validity of the degree from the date of acquisition will stand to benefit the candidates, therefore, the question of introducing the prospective or retrospective ruling will tantamount to violent interpretation against the settled legal position. In this context, it is useful to refer to the judgment of the Apex Court in the case of B.S. Vadera vs. Union of India reported in MANU/SC/0160/1968 : AIR 1969 SC 118, wherein, the law is well declared that an accrued and acquired right of a person cannot be taken away with retrospective effect.

22. Also, in the present case, neither the Equivalence Committee nor the Government Orders in G.O.Ms. Nos. 72, dated 30.04.2013 and 117, dated 02.07.2013, confined the validity of the degree obtained by the candidates to operate prospectively, therefore, as per the above judgments, when the vested rights are created from the date of their acquisition of equivalent degrees, the respondents cannot take a stand that the degrees obtained by the petitioners will only have prospective effect from the date of issuance of Equivalence Certificate. When both the Equivalence Committee and the Government Order have consistently not mentioned the effect of the validity of the degree, it is not proper to hold prospective by any one, more so, by the Court. That apart, a degree or a certificate issued by any University or competent educational authorities always have the effect on par with a decree issued by a competent civil court. Besides, it is well settled legal position that even an executing court cannot go behind its decree and this principle will mutatis mutandis undoubtedly apply to the case on hand as well.

23. It must be stressed here that fairness demands that no court can afford to have more than one view on one or the same issue; lest, there will be inconsistency. Consistency and Uniformity are the basic virtues inherent in every court proceedings. The law is meant to protect people from inconsistency bred by any legal confusion and confrontation. When two of the learned single Judges' orders have not been addressed nor over-ruled on the vital point, we are duty-bound to iron out the inconsistency to have uniformity and consistency on the issue involved. To uphold the 'one court-one view' principle, in turn, to restore the consistency and uniformity, we hereby hold that the view taken in Geetha's case is incorrect, therefore, it is over-ruled. In view of the above settled position and for the foregoing reasons, we hold that the equivalence certificate issued by the committee constituted by the Government declaring that the degrees obtained from one University is equivalent to the degrees obtained from yet another University cannot be held to be only prospective in operation but will have its effect and validity right



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from the date of issuance, therefore, with due respect to the Hon'ble Division Bench, the view taken in N. Geetha's case is incorrect. Accordingly, the reference is answered."

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16. The basis on which the Full Bench proceeded is that when the equivalence committee had held that the degrees are equivalent, and if such recommendations are given only prospective effect it would mean that the vested rights created from the date of acquisition of the degrees, would be taken away. Applying the very same logic, and also noting that a degree issued by a university is to be treated on par with a decree of a competent court, it certainly creates vested rights in the candidate. Moreso, in the present case, when the university already certified the equivalence during the relevant point in time, the State Government cannot nullify such equivalence at this distance of time by giving its recommendations retrospective effect. As such, the impugned order can operate prospectively alone and cannot affect degrees obtained prior to the date of the impugned order if the equivalence have been previously certified either by a university or competent authority. We find force in the submission of the counsel for the appellant that non-equivalence orders issued much later in time cannot be deemed to be retrospective and must only be prospective in nature so as not to take away the rights of candidates like the appellant who had acquired the said degree as early as in



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2012 when the same was treated as equivalent to B.Sc. (Physics) and she was also granted admission to M.Sc. (Physics) based on such equivalence.

17. It is true that this Court, in exercise of powers under Article 226 of the Constitution of India, cannot interfere with the opinion rendered by the experts in the field. This Court is also not going into the correctness or otherwise of such opinion rendered by the experts. But at the same time, the order issued in G.O. Ms. No.244, Higher Education (C2) Department dated 07.11.2022, based on the opinion rendered by the experts, should not be put against the appellant to invalidate the otherwise valid degree obtained by her during the year 2012. In fact, the second respondent University itself has given equivalence certificate in favour of the appellant, based on which she participated in the competitive examination for the purpose of employment in public services. Therefore, we are of the view that the opinion rendered by the experts on 20.10.2022, based on which the Government issued G.O. Ms. No.244, Higher Education (C2) Department dated 07.11.2022, cannot be put against the appellant to deny her public employment. If at all, the Government Order in G.O. Ms. No.244, Higher Education (C2) Department dated 07.11.2022 must be applied prospectively and not retrospectively to bring within its sweep the degrees obtained by the students prior to the issuance of the said Government Order.



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18. In the light of the above, the impugned G.O. (Ms). No.244 Higher Education (K2) Department dated 07.11.2022 insofar as relates to Item No.29 stating that B.Sc., Science (Mathematics, Physics, Computer Science) awarded by Sri Venkateswara University is not equivalent to B.Sc. (Physics) for the purpose of employment in Public Services, is quashed insofar as the appellant is concerned.

19. As a sequel, the order dated 29.11.2023 passed in WP No. 30781 of 2023 is set aside and this Writ Appeal is allowed. The respondents are directed to treat the writ petitioner-appellant as eligible for employment in public services of the State holding that B.Sc. (Science) acquired by her during the year 2012 is equivalent to B.Sc. (Physics). No costs. Consequently, connected miscellaneous petitions are closed.

(R.M.D., ACJ) (M.S.Q., J)
12.07.2024

Index : Yes / No
Internet : Yes / No

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To
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1. The State of Tamilnadu
represented by its Principal Secretary to Government
Higher Education K2 Department
Fort St. George, Chennai - 600 009
2. University of Madras
Chepauk, Chennai - 600 005
3. Teachers Recruitment Board
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THE HON'BLE ACTING CHIEF JUSTICE

and

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